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ALLIANCES IN MEXICO

March 1, 2024

VIA ECF

The Honorable Pamela K. Chen  
United States District Court Judge  
United States District Court for the  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn New York 11201

**Re: Michael Grecco Productions, Inc. v. Alamy Inc. and Alamy Ltd., U.S.D.C.,  
E.D.N.Y., No. 1:18-cv-3260-PKC-JAM**

Dear Judge Chen:

On behalf of Plaintiff Michael Grecco Productions, Inc. (“MGPI”), I write in response to Your Honor’s December 6, 2023 Electronic Order.

As indicated in Plaintiff’s position letter dated November 22, 2023 (Doc. 170), the potential impact of the infringements identified in the second MGPI action against Alamy Inc. and Alamy Ltd. (together, “the Alamy Defendants”), *Michael Grecco Productions, Inc. v. Alamy Inc., et al.*, Civil Action No. 23-cv-08321 (MGPI II), on the issues raised in the Alamy Defendants’ summary judgment motion filed in this action may depend on the overlap between the additional defendants identified in MGPI II and the so-called “contributors” on whom the Alamy Defendants premise their Digital Millennium Copyright Act immunity arguments. At this time, a “contributor” of one of the infringed works has not yet been identified. As to the contributor defendants named in the original MGPI II Complaint, the Alamy Defendants provided information concerning the location of those defendants and service has been completed on two. Those defendants have not yet responded to the Complaint. Service under the Hague Convention is still in process as to the remaining contributor defendants named in the original MGPI II Complaint, and no response to the Complaint has yet been submitted by any.

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In short, at this time, the real identity of those contributors has not been confirmed and any overlap with the contributors alleged in the Alamy Defendants' summary judgement motion in this case has not yet been determined, or ruled out, by those parties. MGPI remains aware only that two "contributors" the Alamy Defendants blame for some of the infringements at issue in this action overlap with "contributors" identified on the Alamy Defendants' website in connection with infringements at issue in the MGPI II – AF Archive and Album.

MGPI filed a First Amended Complaint in the MGPI II action today, which among other information required by the Court, includes a newly identified (discovered on January 3, 2024) infringement and new contributor defendant (Everett Collection, Inc.). The infringement of the MGPI work at issue in that newly discovered claim does raise a factual issue that bears somewhat on the issues raised by the Alamy Defendants in the summary judgment motion filed in this action. Specifically, the Alamy Defendants' summary judgment arguments are premised, in part, on an alleged lack of knowledge of infringement by its alleged contributors. The newly identified MGPI image as it appears on the alamy.com website expressly displays on its face copyright credit to Michael Grecco as photographer. A copy of the image at issue in the new claim added to the First Amended Complaint in MGPI II today taken from a screenshot with a portion of the image snipped and enlarged to show the reference to Mr. Grecco is enclosed as Exhibit A with this letter.

The Alamy Defendants' displays Copyrighted Works at issue in this action did not include an identical notice of MGPI's or Mr. Grecco's copyrights on the face of the images, but this newly discovered fact relating to another infringement of a MGPI work may be seen as contradicting certain of the allegations concerning the practices and actions involved in operating the alamy.com website that have been presented in support of the Alamy Defendants' summary judgment motion premised on so-called host immunity.

Sincerely,

*s/Steven M. Cowley*

SMC:mar

cc: All counsel of record (by ECF)

Encl. – Exhibit A